

U.S. NAVY-MARINE CORPS TRIAL JUDICIARY
JUDICIAL CIRCUIT
GENERAL/SPECIAL COURT-MARTIAL

1 UNITED STATES

2 V.

3 ACCUSED

PRETRIAL ORDER with DEADLINES

Date Issued

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7 1. This **Court Order** is issued pursuant to RCM 701(g)(1) and RCM 801(a)(3). This order is to advance
8 the interests of justice and to ensure the timely and orderly progression of this case. Nothing within this
9 order will be construed to supercede any rule found within the Manual for Courts-Martial or other
10 regulatory, statutory or constitutional obligation or right of either party. Unless otherwise specifically
11 noted, all documents or motions ordered or filed with the court must be filed with the court and opposing
12 counsel **no later than 1200** on the day ordered.

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14 2. Trial is set to begin in this case at **TIME, DATE** at _____, _____. Counsel
15 will comply with this order or seek relief from the undersigned judge or the Circuit Military Judge before
16 the deadline. **Items preceded by an asterisk must also be provided to the military judge.**

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18 3. Not later than **DATE**, trial counsel must provide the following items to the defense:

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20 a. Papers accompanying the charges, convening orders, and statements. (RCM 701(a)(1)).

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22 b. Names, phone numbers, addresses, and for military witnesses, unit of assignment of witnesses
23 in the government's case in chief. (RCM 701(a)(3)).

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25 c. Notice of records of prior convictions of the accused to be offered on the merits, if any.
26 (RCM 701(a)(4)).

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28 d. Notice of immunity or leniency to prosecution witnesses, if any. (MRE 301(d)(2)).

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30 e. Disclosure of known evidence that is favorable to the defense, if any. (RCM 701(a)(6)).

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32 f. Disclosure of relevant statements made by the accused, if any. (MRE 304(d)).

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34 g. Disclosure of evidence seized from or the property of the accused, if any. (MRE 311(d)(1)).

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36 h. Disclosure of evidence of prior identification of the accused, if any. (MRE 321(d)(1)).

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38 i. Disclosure as required by MRE 413(b), and 414(b) if applicable.

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40 4. Not later than 5 calendar days after receipt by the trial counsel of a request from the defense counsel
41 under RCM 701(a)(2) or (5), or MRE 404(b), trial counsel will provide the notice or make the disclosures
42 required by the applicable rule.

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44 5. Defense counsel will provide notice and disclosure to the trial counsel in accordance with the
45 following schedule:

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*a. Not later than **DATE**, submit any request for the employment of a defense expert [consultant and/or witness]. (RCM 703(d)).

b. Not later than **DATE**:

(1) Request production of out-of-area witnesses (RCM 703(c)(2)(A)). An out-of-area witness is defined as one requiring funded travel and/or per diem. In this regard, the parties are reminded that a “synopsis” as this term is used in the RCM, is not a generalized statement of the subject matter of the witness’ testimony. A “synopsis” is a summary, in narrative form, of the requested witness’ actual testimony. Responses to Defense requests for witness production are due no later than **DATE**.

*(2) If applicable, provide written notice of intent to offer evidence of the defense of alibi, innocent ingestion, lack of mental responsibility, or the defense’s intent to introduce expert testimony as to the accused’s mental condition fully complying with RCM 701 (b)(2) in the particulars contained in the notice.

*(3) If applicable, file a written motion and provide notice of intent to offer relevant evidence of specific instances of the purported victim’s other sexual behavior or sexual predisposition as required by MRE 412(c)(1)(A) and (B).

c. Not later than **DATE**:

(1) Provide names, addresses, unit of assignment if applicable, and telephone numbers of witnesses for the defense case-in-chief and provide copies of their statements. (RCM 701(b)(1)(A)).

* (2) Provide notice of forum and pleas. This will be accomplished, at a minimum with a Pretrial Information Report initiated by trial counsel and endorsed by defense counsel.

d. Not later than 5 calendar days after receipt by the defense counsel from the trial counsel under RCM 701(b)(1)(B) or RCM 701 (b)(3) or (4), the defense will make the disclosure required by the applicable Rule.

* 6. Not later than **DATE**, both the trial and defense counsel will provide briefs on any motion. The responding party will reply not later than 7 calendar days after receipt of the motion. All motions (except for docketing motions and continuance motions or those specifically delineated on a case-by-case basis by the undersigned military judge) must include counsel’s proposed findings of fact and law. Motions to be heard on **DATE**.

7. The trial counsel must notify the defense counsel of its intent to deny the defense any witness or expert consultant requested by the defense not later than 3 calendar days after receipt of a request for that witness. If a motion to compel production is deemed appropriate by the defense, counsel must endeavor to make timely requests as well as timely motions to compel production so as to meet all deadlines within this order or seek the Court’s leave for alterations or deviations from this order. Deviations may be granted for good cause shown.

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8. If during or before the court-martial, a party discovers additional evidence or material previously requested or required to be produced which is subject to discovery or inspection under RCM 701, or any other matter with regard to which notice or disclosure was required to be given under RCM 701 or this order, that party must immediately notify the other party.

* 9. Not later than **DATE**, if the forum selected will be with members (either on merits or sentencing only) both Trial and Defense Counsel must provide to the court, with service between themselves, a cleansed charge sheet, a combined witness list, proposed voir dire, proposed findings instructions and findings worksheet. Should the member's trial be for sentencing only, counsel may substitute proposed sentencing instructions and a sentencing worksheet for proposed findings instructions and worksheet.

10. During the pendency of this action, R.C.M. 802 sessions and or Article 39a sessions may be requested by the parties or directed by the Court as deemed necessary.

11. **Service:** Trial Counsel is responsible for serving a copy of this order on all counsel for all parties. If an alleged victim/complaining witness is represented by independent counsel, a copy of this order must also be immediately served on the independent counsel and/or victim/complaining witness advocate.

12. **Independent Counsel:** Independent Counsel representing an alleged victim(s) / complaining witness(es) must file a notice of appearance with the Clerk of Court at least five (5) days prior to any Article 39(a) session of the trial in which they desire to be heard. Failure to comply with this rule will constitute waiver by independent counsel of the right to heard, subject to further determination by the presiding judge.

So ORDERED this _____ day of _____ 2013/2014.

Military Judge

Date